

SECOND REGULAR SESSION

HOUSE BILL NO. 1485

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JOHNSON (90).

Read 1st time January 16, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2948L.011

AN ACT

To repeal section 210.145, RSMo, and to enact in lieu thereof one new section relating to child abuse investigations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 210.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.145, to read as follows:

210.145. 1. The division shall establish and maintain an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. Upon receipt of a report, the division shall immediately communicate such report to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

3. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation, or, which, if true, would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and
18 the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a
19 child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060,
20 568.080, or 568.090, RSMo, section 573.025, 573.037 or 573.045, RSMo, or an attempt to
21 commit any such crimes. The local office shall provide such agency with a detailed description
22 of the report received. In such cases the local division office shall request the assistance of the
23 local law enforcement agency in all aspects of the investigation of the complaint. The
24 appropriate law enforcement agency shall either assist the division in the investigation or provide
25 the division, within twenty-four hours, an explanation in writing detailing the reasons why it is
26 unable to assist.

27 4. The local office of the division shall cause an investigation or family assessment and
28 services approach to be initiated immediately or no later than within twenty-four hours of receipt
29 of the report from the division, except in cases where the sole basis for the report is educational
30 neglect. If the report indicates that educational neglect is the only complaint and there is no
31 suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours
32 of receipt of the report. If the report indicates the child is in danger of serious physical harm or
33 threat to life, an investigation shall include direct observation of the subject child within
34 twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary
35 steps to facilitate such direct observation. **If the parents of the child are not the alleged**
36 **abusers, the parents of the child must be notified prior to the child being interviewed by**
37 **the division. The division shall not meet with the child in any location where abuse of such**
38 **child is alleged to have occurred.** When the child is reported absent from the residence, the
39 location and the well-being of the child shall be verified.

40 5. The director of the division shall name at least one chief investigator for each local
41 division office, who shall direct the division response on any case involving a second or
42 subsequent incident regarding the same subject child or perpetrator. The duties of a chief
43 investigator shall include verification of direct observation of the subject child by the division
44 and shall ensure information regarding the status of an investigation is provided to the public
45 school district liaison. The public school district liaison shall develop protocol in conjunction
46 with the chief investigator to ensure information regarding an investigation is shared with
47 appropriate school personnel. The [public school district liaison shall be designated by the]
48 superintendent of each school district **shall designate only one person to act as the public**
49 **school district liaison.** Should the subject child attend a nonpublic school the chief investigator
50 shall notify the school principal of the investigation. **Upon notification of an investigation, all**
51 **information received by the public school district liaison or the school shall be subject to**
52 **the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20**

53 **U.S.C. Section 1232g, and federal rule 34 C.F.R. Part 99.**

54 6. The investigation shall include but not be limited to the nature, extent, and cause of
55 the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the
56 names and conditions of other children in the home, if any; the home environment and the
57 relationship of the subject child to the parents or other persons responsible for the child's care;
58 any indication of incidents of physical violence against any other household or family member;
59 and other pertinent data.

60 7. When a report has been made by a person required to report under section 210.115,
61 the division shall contact the person who made such report within forty-eight hours of the receipt
62 of the report in order to ensure that full information has been received and to obtain any
63 additional information or medical records, or both, that may be pertinent.

64 8. Upon completion of the investigation, if the division suspects that the report was made
65 maliciously or for the purpose of harassment, the division shall refer the report and any evidence
66 of malice or harassment to the local prosecuting or circuit attorney.

67 9. Multidisciplinary teams shall be used whenever conducting the investigation as
68 determined by the division in conjunction with local law enforcement. Multidisciplinary teams
69 shall be used in providing protective or preventive social services, including the services of law
70 enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and
71 other agencies, both public and private.

72 10. If the appropriate local division personnel determine after an investigation has begun
73 that completing an investigation is not appropriate, the division shall conduct a family
74 assessment and services approach. The division shall provide written notification to local law
75 enforcement prior to terminating any investigative process. The reason for the termination of
76 the investigative process shall be documented in the record of the division and the written
77 notification submitted to local law enforcement. Such notification shall not preclude nor prevent
78 any investigation by law enforcement.

79 11. If the appropriate local division personnel determines to use a family assessment and
80 services approach, the division shall:

81 (1) Assess any service needs of the family. The assessment of risk and service needs
82 shall be based on information gathered from the family and other sources;

83 (2) Provide services which are voluntary and time-limited unless it is determined by the
84 division based on the assessment of risk that there will be a high risk of abuse or neglect if the
85 family refuses to accept the services. The division shall identify services for families where it
86 is determined that the child is at high risk of future abuse or neglect. The division shall
87 thoroughly document in the record its attempt to provide voluntary services and the reasons these
88 services are important to reduce the risk of future abuse or neglect to the child. If the family

89 continues to refuse voluntary services or the child needs to be protected, the division may
90 commence an investigation;

91 (3) Commence an immediate investigation if at any time during the family assessment
92 and services approach the division determines that an investigation, as delineated in sections
93 210.109 to 210.183, is required. The division staff who have conducted the assessment may
94 remain involved in the provision of services to the child and family;

95 (4) Document at the time the case is closed, the outcome of the family assessment and
96 services approach, any service provided and the removal of risk to the child, if it existed.

97 12. Within thirty days of an oral report of abuse or neglect, the local office shall update
98 the information in the information system. The information system shall contain, at a minimum,
99 the determination made by the division as a result of the investigation, identifying information
100 on the subjects of the report, those responsible for the care of the subject child and other relevant
101 dispositional information. The division shall complete all investigations within thirty days,
102 unless good cause for the failure to complete the investigation is documented in the information
103 system. If the investigation is not completed within thirty days, the information system shall be
104 updated at regular intervals and upon the completion of the investigation. The information in
105 the information system shall be updated to reflect any subsequent findings, including any
106 changes to the findings based on an administrative or judicial hearing on the matter.

107 13. A person required to report under section 210.115 to the division shall be informed
108 by the division of his **or her** right to obtain information concerning the disposition of his or her
109 report. Such person shall receive, from the local office, if requested, information on the general
110 disposition of his or her report. A person required to report to the division pursuant to section
111 210.115 may receive, if requested, findings and information concerning the case. Such release
112 of information shall be at the discretion of the director based upon a review of the mandated
113 reporter's ability to assist in protecting the child or the potential harm to the child or other
114 children within the family. The local office shall respond to the request within forty-five days.
115 The findings shall be made available to the mandated reporter within five days of the outcome
116 of the investigation.

117 14. In any judicial proceeding involving the custody of a child the fact that a report may
118 have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However,
119 nothing in this subsection shall prohibit the introduction of evidence from independent sources
120 to support the allegations that may have caused a report to have been made.

121 15. The division of family services is hereby granted the authority to promulgate rules
122 and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo,
123 to carry out the provisions of sections 210.109 to 210.183.

124 16. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that

125 is created under the authority delegated in this section shall become effective only if it complies
126 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
127 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
128 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
129 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
130 grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be
131 invalid and void.